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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,378	01/30/2004	Jeanet Harvej	891.0002.U1(US)	7896
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			EXAMINER LOFTIN, CELESTE	
			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/769,378	HARVEJ ET AL.	
	Examiner	Art Unit	
	Celeste L. Loftin	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1-3, 6, 10, and **14** are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshino **U.S Patent 6,308,086**.

Regarding claim 1, Yoshino discloses a method of attracting the attention of a user of a mobile terminal, the method comprising:

the mobile terminal receiving audio information (the user hums a melody into the microphone and the microphone outputs the user's voice as an input voice) (**col. 3 lines 62-63**),

providing the audio information to the user (reads on thus-extracted musical scale information, a musical scale signal is produced and output) (**col. 4 lines 6-7**)

the user operating, during the providing step, selecting means of the mobile terminal so as to select part of the audio information reads (reads on the thus-extracted musical scale information, a musical scale signal is produced and later an audio signal is outputted, however during this process frequency components corresponding to a note of musical scale is extracted) (**col. 4 lines 3-6 and col.3 lines 55-58 and 65-67**),

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the mobile terminal subsequently attracting the attention of the user by playing the selected part of the audio information (reads on the musical information that is produced can be reproduced as needed) (**col. 8 lines 18-20**).

Regarding claim 2, Yoshino discloses a method according to claim 1, wherein the selecting step comprises storing the selected part of the audio information in the mobile terminal (reads on stores a musical tone signal) (**col. 4 lines 17-20**).

Regarding claim 3, Yoshino discloses a method according to claim 1, wherein the providing step is performed by a signal source transmitting the audio information to the mobile terminal (reads on the operation signal is input form the operation section) (**col.4 lines 28-30**).

Regarding claim 5, Yoshino discloses a mobile terminal comprising:

means for receiving audio information (the user hums a melody into the microphone and the microphone outputs the user's voice as an input voice) (**col. 3 lines 62-63**),

means for allowing the user to select part of the audio information, while the receiving means receive the information (reads on the thus-extracted musical scale information, a musical scale signal is produced and later an audio signal is outputted, however during this process frequency components corresponding to a note of musical scale is extracted) (**col. 4 lines 3-6 and col.3 lines 55-58 and 65-67**),

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means for attracting the attention of the user by playing the selected part of the audio information (reads on the musical information that is produced can be reproduced as needed) (**col. 8 lines 18-20**), and

means for determining that the attention of the user is desired/required, the determining means being adapted to operate the attracting means (any portable cellular phone that has a memory section can store this musical information and reproduce or select the information at any time that is suited to the preference of the user) (**col. 8 lines 18-23**)

Regarding claim 6, Yoshino discloses a mobile terminal according to claim 5, further comprising means for providing the information to the user while receiving the information (the user hums a melody into the microphone and it is outputted as an audio signal) (**col. 3 lines 63-68**).

Regarding claim 10, Yoshino discloses a mobile terminal comprising:

means for receiving audio information (the user hums a melody into the microphone and the microphone outputs the user's voice as an input voice) (**col. 3 lines 62-63**),

means for providing the audio information to the user (reads on thus-extracted musical scale information, a musical scale signal is produced and output) (**col. 4 lines 6-7**)

means operable by the user for selecting part of the audio information, while providing the information (reads on the thus-extracted musical scale information, a musical scale signal is produced and later an audio signal is outputted, however during this process frequency components corresponding to

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a note of musical scale is extracted) (**col. 4 lines 3-6 and col.3 lines 55-58 and 65-67**),

means for attracting the attention of the user by playing the selected part of the audio information (reads on the musical information that is produced can be reproduced as needed) (**col. 8 lines 18-20**), and

means for determining that the attention of the user is desired/required, the determining means being adapted to operate the attracting means (any portable cellular phone that has a memory section can store this musical information and reproduce or select the information at any time that is suited to the preference of the user) (**col. 8 lines 18-23**).

Regarding claim 14, Yoshino disclose a software system (i.e. computation section) for performing the steps of claim 1 in a mobile terminal (reads on through use of a mathematical means the computation section extracts the audio signal entered from the input section) (**col. 4 lines 2-4**).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 4, 7-9, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshino U.S Patent 6,308,086 in view Le-Faucheur et al. (Le-Faucheur) U.S. Patent 6,704,582.

Regarding claim 4, Yoshino discloses a method according to claim 1, but fails to disclose wherein the mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call.

In a similar field of endeavor, Le-Faucheur discloses wherein the mobile terminal is a mobile telephone (i.e. digital cellular phone) (col. 2 lines 27), and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call (reads on when a call is detected processing circuitry cause the designated call signal audio file to be played) (col.3 lines63-65).

At the time of invention it would have been obvious to one of ordinary skill in the art to further modify Yoshino to include disclose wherein the mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call. Motivation for this modification would have been to allow the user to have a more precise preference of ring tones for incoming calls.

Regarding claim 7, Yoshino discloses a mobile terminal according to claim 5, but fails to disclose wherein the selecting means comprises a push button, a depression of which defines a starting point of the selected part of the audio information.

In a similar field of endeavor, Le-Faucheur discloses wherein the selecting means comprises a push button, a depression of which defines a starting point of the selected part of the audio information (reads on pressing the record button that starts the recording of the audio input on the initial press and stops the recording with a second press) (**col. 2 lines 37-39**).

At the time of invention it would have been obvious to one of ordinary skill in the art to further modify Yoshino to include wherein the selecting means comprises a push button, a depression of which defines a starting point of the selected part of the audio information. Motivation for this modification would have been to allow the process of selecting part of the audio information time efficient.

Regarding claim 8, Yoshino and Le-Faucheur disclose a mobile terminal according to claim 7. Le-Faucheur further discloses wherein the selecting means comprises a push button, a depression of which defines an ending point of the selected part of the audio information (reads on pressing the record button that starts the recording of the audio input on the initial press and stops the recording with a second press (i.e. depression)) (**col. 2 lines 37-39**).

At the time of invention it would have been obvious to one of ordinary skill in the art to further modify Yoshino to include wherein the selecting means comprises a push button, a depression of which defines an ending point of the selected part of the audio information. Motivation for this modification would have been to allow the process of selecting part of the audio information time efficient.

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Regarding claim 9, Yoshino discloses a method according to claim 5, but fails to disclose wherein the mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call.

In a similar field of endeavor, Le-Faucheur discloses wherein the mobile terminal is a mobile telephone (i.e. digital cellular phone) (**col. 2 lines 27**), and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call (reads on when a call is detected processing circuitry cause the designated call signal audio file to be played) (**col.3 lines63-65**).

At the time of invention it would have been obvious to one of ordinary skill in the art to further modify Yoshino to include disclose wherein the mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call. Motivation for this modification would have been to allow the user to have a more precise preference of ring tones for incoming calls.

Regarding claim 11, Yoshino discloses a mobile terminal according to claim 10, but fails to disclose wherein the selecting means comprises a push button, a depression of which defines a starting point of the selected part of the audio information.

In a similar field of endeavor, Le-Faucheur discloses wherein the selecting means comprises a push button, a depression of which defines a starting point of the selected part of the audio information (reads on pressing the record button

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that starts the recording of the audio input on the initial press and stops the recording with a second press) (**col. 2 lines 37-39**).

At the time of invention it would have been obvious to one of ordinary skill in the art to further modify Yoshino to include wherein the selecting means comprises a push button, a depression of which defines a starting point of the selected part of the audio information. Motivation for this modification would have been to allow the process of selecting part of the audio information time efficient.

Regarding claim 12, Yoshino and Le-Faucher disclose a mobile terminal according to claim 11. Le-Faucher further discloses wherein the selecting means comprises a push button, a depression of which defines an ending point of the selected part of the audio information (reads on pressing the record button that starts the recording of the audio input on the initial press and stops the recording with a second press (i.e. depression)) (**col. 2 lines 37-39**).

At the time of invention it would have been obvious to one of ordinary skill in the art to further modify Yoshino to include wherein the selecting means comprises a push button, a depression of which defines an ending point of the selected part of the audio information. Motivation for this modification would have been to allow the process of selecting part of the audio information time efficient.

Regarding claim 13, Yoshino discloses a method according to claim 10, but fails to disclose wherein the mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call.

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In a similar field of endeavor, Le-Faucheur discloses wherein the mobile terminal is a mobile telephone (i.e. digital cellular phone) (**col. 2 lines 27**), and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call (reads on when a call is detected processing circuitry cause the designated call signal audio file to be played) (**col.3 lines63-65**).

At the time of invention it would have been obvious to one of ordinary skill in the art to further modify Yoshino to include disclose wherein the mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call. Motivation for this modification would have been to allow the user to have a more precise preference of ring tones for incoming calls.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yamaki et al., U.S. Publication 2003/0013497 discloses Portable phone equipped with composing function.

6. At the time of invention it would have been obvious to one of ordinary skill in the art to further modify Yoshino to include disclose wherein the mobile terminal is a mobile telephone, and wherein the attracting step comprises the mobile telephone receiving an incoming telephone call. Motivation for this modification would have been to allow the user to have a more precise preference of ring tones for incoming calls.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celeste L. Loftin whose telephone number is 571-272-2842. The examiner can normally be reached on Monday thru Friday 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CL


J. K. CONTEE
PATENT EXAMINER